

# Chapter 1

## *Can You Appeal?*

You are unhappy with a decision of the superior court. You wish to appeal to a higher court. Can you do so? The first three steps will help you decide. First you must consider whether you are a person who can appeal. Next the court must have made a judgment, an appealable order, or an order after judgment that is appealable, and you must have the paperwork to verify that. Then you must file a form called a *Notice of Appeal* by a certain deadline, letting the court know that you intend to appeal.

### *Step 1. Are you a person who can appeal?*

Not everyone can appeal. In order to appeal, you must be “aggrieved.” “**Aggrieved**” means the superior court or administrative agency made a decision that affects your legal rights (for example, it upheld your being fired by your employer) or costs you money (for example, ordering you to pay doctor bills for someone you hurt in a car accident that you caused). Usually you must have been a party in the case in the superior court. You may not appeal for a spouse, a child (unless you are the child’s guardian), or a friend.

### *Step 2. What can you appeal?*

Not every court ruling is appealable. In family law and probate cases, most of the orders made in the case can be appealed right away. However, in other cases you can appeal only a **final judgment**. The court usually makes its final judgment at the end of the case. This may be a ruling by the superior court judge, with or without a hearing, or it may be after a trial with a jury.

In some instances, the court dismisses a case before it ever gets to trial. This means the plaintiff has not been able to show the court that anyone did anything legally wrong to him or her. A dismissal may come after a **demurrer**. A demurrer is a motion brought by the defendant saying that even if everything the plaintiff has said in his or her complaint is true, the complaint still does not present anything that is legally wrong or that can serve as the basis for a lawsuit. If the court agrees that there is no basis for a suit, it dismisses the case. Section 581d of the Code of Civil Procedure says the order granting a demurrer and dismissing the case is to be treated as a judgment. Therefore, the ruling granting the demurrer (or, in legalese, “sustaining the demurrer without leave to amend”) and dismissing the case is an appealable order. Some courts do not treat the order as appealable unless the word

*dismiss* is used, so you should make sure that your order actually says the matter is dismissed.

Another condition under which a case might be dismissed before trial is after a motion for summary judgment has been brought. A motion for summary judgment comes after the parties have **discovery**—they have learned the facts of what happened and developed evidence in the case. If there are no “triable issues of material fact”—that is, there is no dispute over what the facts are—either the plaintiff or the defendant or both may bring a **motion (or motions) for summary judgment** saying the court must rule in their favor as a matter of law. This is because the trial court is the fact-finding court, and if there is no dispute about the facts, there are no facts to be found; thus, the court need only apply the law to the undisputed facts and rule for the appropriate side.

Despite the name “summary judgment,” the ruling of the court that comes after the filing of a motion for summary judgment is an **order**, not a final judgment. Unlike the situation of the demurrer—in which it is not necessary to get a final judgment—an order granting summary judgment is not appealable. The court must make a later final judgment, which is appealable.

After the trial or hearing is over *or* the superior court judge makes a ruling you need to get a file-stamped copy of the ruling you want to appeal. This ruling may be included as part of the court’s minutes, or it may be a separate piece of paper labeled *Judgment, Order or Order after Judgment*.<sup>1</sup>

**What are the minutes?** The minutes are the official court record of what happened during the case. Minutes are written down by the clerk and kept in the superior court file for your case. You can identify the minutes by looking at the bottom of the pages in your file and seeing the label “Minutes.” Among the minutes the clerk may record the court’s ruling if it is an order. Because it is presented in the minutes, it is called a **minute order**. (There is no such thing, however, as a minute judgment.) You can recognize the order because it is expressly called an order, or the language directs (orders) that something be done or the language decides or resolves a dispute. If the minute order is signed by the judge and file-stamped, it may be used as the basis of the *Notice of Appeal*.

If you do not see something in the minutes labeled “Order,” look closely through the minutes to see if the court has said that you or one of the other parties should prepare a formal judgment or order. If that is the case, you may not use the minutes

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<sup>1</sup> We started this section by saying that not every court ruling is appealable. Mainly judgments and orders after judgment are appealable. Orders before judgment—orders from motions ruled on before trial, or during trial before there is a judgment—may be reviewed at the Court of Appeal by a petition for writ. This procedure is very different from appeal. You can learn about it by consulting the references in the Bibliography.

but must wait until a separate document titled *Judgment*, *Order*, or *Order After Judgment* has been prepared, signed by the superior court judge, and file-stamped. The file stamping makes this an official court document and includes the date on which the item was stamped. You then use this as the basis for your *Notice of Appeal*.

**What is a judgment or order?** A judgment comes at the end of the case and has to do with one or more of the parties. As already mentioned, it may be the verdict of the jury, or it may be a ruling by the superior court judge.

If it is a ruling by the judge, it may come after a trial in which the parties decided not to have a jury, or it may be the result of a motion before trial. After the superior court judge grants a motion for summary judgment, he or she issues a judgment. In any of these cases, it is the judgment that tells what the final result of the case is—who is the “winner.” It may award money to one or more of the parties, or it may direct that something be done. For example, it might say: “Damages to the plaintiff in the amount of a zillion dollars.” All final judgments are appealable.

Instead of a judgment, you may want to appeal an appealable order. As mentioned, an order is the ruling that is made after the superior court judge has heard and decided a motion. For the order to be appealable, it generally must follow a motion made in a family law or probate matter (in which most orders are appealable), a demurrer or some other motion resulting in a dismissal, or an order following a judgment.

For example, after the judgment has been entered, counsel may make a motion for attorney fees. The ruling on this motion can be appealed separately from the judgment on the case as a whole. In this example, the order would direct or deny the payment of attorney fees. If the judgment or order were in a separate document, the document would probably be titled *Judgment* or *Order* or *Order after Judgment*.

If there is no judgment in the court file, and nothing in the minutes says who is to prepare the judgment, then generally the winning party prepares the order or judgment. Before you start your appeal make sure you have a copy of this order or judgment. This court recommends that the order or judgment be signed by the judge and file-stamped in the upper right-hand corner. The date of the file stamp is the date of the entry of the judgment. (If your order is in the minutes, the date of entry is the file stamp on the minutes.) This is the date from which you count to figure out how much time you have to file your *Notice of Appeal*. (CRC rule 2(c).)

**How are San Diego family law cases different?** The San Diego County Family Law Court does not file-stamp nor does the judge sign, the preprinted “check-off” minutes form. About two-thirds of the way down the form, toward the right there is a “check-off” as to who is to prepare the order or judgment. If nothing is checked off, that means the parties should proceed under Superior Court of San Diego County rule 5.63. (See page 1-12.)

### *Step 3. When can you appeal?*

**When can you file a *Notice of Appeal*?** A *Notice of Appeal* is the form you file to let the court know that you intend to appeal (pages 1-6; 1-7). You can file a *Notice of Appeal* as soon as the order or judgment is signed by the superior court judge and file-stamped by the court clerk. The judgment is “entered” when it is file-stamped; this is also called the entry of judgment. After the entry of judgment you may want to serve and file a *Notice of Entry of Judgment* (page 1-8), which, as discussed later, puts a time limit on the filing of the *Notice of Appeal*.

If an appealable order is included in the minutes, signed by the judge and file-stamped by the court clerk, it can be the basis for your appeal.

If no appealable order is included in the minutes, the person designated in the minutes or, if no one is designated, the winning party, prepares an order or judgment. In any case, you must wait to file the *Notice of Appeal* until a separate document titled *Judgment, Order, or Order After Judgment* has been prepared, signed by the superior court judge and file-stamped by the court clerk. (CRC rule 2(c).)

In some cases, no order or judgment has been prepared, no party has been directed to prepare the order or judgment or the party who was directed to prepare one has failed to do so. Then, any party may prepare an order or judgment in any case except family law cases. (See page 1-12.) Most often, it will be the appellant who does so because he or she needs the order or judgment to go ahead with the appeal. If you prepare a proposed order or judgment, you must serve it (as discussed later) on opposing counsel and on the superior court. Ask for opposing counsel’s approval as to form within a certain number of days say, 10 or 15.

If opposing counsel approves, take or mail the approval along with the proposed judgment or order to the superior court department where your case was heard. Ask the judge to sign it and the clerk to file-stamp it.

If opposing counsel does not approve the judgment or order or does not respond to your request for approval, the superior court will hold the proposed judgment for 20 days from the date of service. At the end of the 20 days the court may sign the order or judgment, hold a hearing, and/or make changes in the proposed order or judgment. In any case, the court will mail you a signed, file-stamped copy. It is this order or judgment that this court recommends you use as the basis of your appeal.

For family law cases arising out of San Diego County, see Superior Court of San Diego County rule 5.63, on the preparation of orders and judgments. (See page 1-12.)

**What factors affect the time of filing?** The time allowed to file a *Notice of Appeal* depends on whether there was a notice of entry of judgment and, if so, when it was mailed or served *or* whether there was a timely motion (for new trial, to vacate the

judgment, for judgment notwithstanding the verdict, or for reconsideration) that, when denied, extends the time.

**What is notice of entry, and how does it affect the time of filing?** Judgment is entered when the court clerk file-stamps the appealable order or judgment. The parties may not know the exact date when this was done. The court clerk or any party may provide notice that the judgment was entered. The clerk may do so by mailing a *Notice of Entry of Judgment (or Order)* or a copy of the judgment or order to the person filing the *Notice of Appeal*; any party may provide *Notice of Entry of Judgment* by serving (as discussed later) each of the other parties with either (1) a *Notice of Entry of Judgment* (page 1-8) or (2) a file-stamped copy of the judgment. A *Proof of Service* (discussed later—see pages 1-9; 1-10; 1-11) must be attached to either document. If either the clerk mails the notice of entry or the party has served the notice of entry, the *Notice of Appeal* must be filed within 60 days of the date of (1) the court clerk’s mailing or (2) the party’s serving a copy of the judgment, minutes, or *Notice of Entry of Judgment*. (CRC, rule 2(a).)

**What if there is no notice of entry of judgment?** If there is no notice of entry, the appellant has 180 days after entry of the order or judgment to file the *Notice of Appeal*. (CRC rules 2(a), 2(c).) Even if there are extensions (see next section), the *Notice of Appeal* may not be filed if 180 days have passed since the entry of the order or judgment (recall that this is the date stamped in the upper right-hand corner of the judgment or order).

**What motions will extend the time to file?** The time to file the *Notice of Appeal* may be extended by 30 days if there is a timely motion:

- For new trial,
- To vacate (or set aside) the judgment,
- For judgment notwithstanding the verdict, or
- To reconsider an appealable order. (CRC rules 3(a)–(d).)

The time limits for filing these motions are set out in Code of Civil Procedure sections 659 (for motion for new trial), 663a (for motion to vacate the judgment), 629 (for motion for judgment notwithstanding the verdict), and 1008(a) (for motion to reconsider an appealable order). These extensions apply whether or not a notice of entry has been served. The 30-day extension runs from the mailing or service of the denial of the motion or generally from denial of the motion by operation of law. (See CRC rule 3.)

**If the *Notice of Appeal* is late in a civil case, the appeal must be dismissed.**

**The five-day extension under Code of Civil Procedure section 1013 for service by mail does *not* apply to notices of appeal and does *not* extend the time to file them.**

## NOTICE OF APPEAL - INSTRUCTIONS

In order to appeal you must be "aggrieved". To be "aggrieved" the lower court or administrative agency must have entered a judgment or order that affects your legal rights or costs you money. Usually you must have been a party in the case in the lower court. You may not appeal on behalf of a spouse, child or other relative (unless you are a legally appointed guardian), or a friend. The notice of appeal is filed in the superior court and should be accompanied by a check, money order or cash of \$655.00 which is the filing fee. Checks or money orders should be made payable to "Clerk, Court of Appeal". A second check or money order for \$100.00 made payable to "Clerk of the Superior Court" is a deposit for the clerk's transcript. This second check need not be included if you, as appellant, plan to prepare an appendix under rule 5.1. If you do not have the money for the filing fee, an application for waiver of court fees and costs must accompany the notice of appeal. (See pages 1-13 through 1-17, for Application for Waiver of Court Fees and Costs.)

### Filling out the Notice of Appeal form:

- (1) Your name.
- (2) Your mailing address.
- (3) Your city, state and zip code.
- (4) Your telephone number where you can be reached during the day.
- (5) The plaintiff's name as it appears on your superior court caption.
- (6) The defendant's name as it appears on your superior court caption.
- (7) The superior court number from your superior court case.
- (8) Your name.
- (9) Describe the judgment or order you are appealing.
- (10) The date of the superior court file stamp on the judgment or order you are appealing.
- (11) Current date.
- (12) Your signature.
- (13) Type or legibly print your name.

**File:** Original plus fees in Superior Court

Bring an extra copy to be file-stamped for your file.

**Serve:** All counsel

All self-represented parties

(1)  
(2)  
(3)  
(4)

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO

(5) \_\_\_\_\_,  
Plaintiff,  
v.  
(6) \_\_\_\_\_,  
Defendant.

Superior Court No. (7) \_\_\_\_\_.

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that (8) \_\_\_\_\_, appeals from  
(9) \_\_\_\_\_ entered on (10) \_\_\_\_\_.

DATED: (11) \_\_\_\_\_

(12) \_\_\_\_\_  
Signature

(13) \_\_\_\_\_  
Type or Print Name

**NOTICE OF ENTRY OF JUDGMENT**

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

[Name of Plaintiff from Superior Court case title],

Plaintiff,

v.

[Name of Defendant from Superior Court case title],

Defendant.

Superior Court No. [Number from Superior Court case]

NOTICE OF ENTRY OF JUDGMENT

On [date judgment filed in superior court], judgment was entered on behalf of [name of prevailing party from the Superior Court action]. Attached hereto is a true and accurate copy of that judgment.

DATED:

By: \_\_\_\_\_

**Note:** Attach a copy of judgment or order and Proof of Service

**File:** Original in Superior Court with Proof of Service.

**Serve:** All counsel  
All self-represented parties

**The above form is a sample only, the actual document must comply with CRC rule 201(d)(1).**



**PROOF OF SERVICE  
INSTRUCTIONS FOR SUPERIOR COURT  
OR COURT OF APPEAL**

Each document you prepare must be served on all counsel and self-represented parties in your case. The document may be served by mail or hand-delivery by someone who is over the age of 18 and not a party to the appeal. **If the document is a brief, you must serve one copy on the Superior Court and five copies on the California Supreme Court as well as all counsel and self-represented parties.**

**How to serve a document:**

Make a copy of your document for each party you wish to serve. You may use the attached Proof of Service form and type or write legibly the information requested. The original Proof of Service must be attached to the document you are filing with the court and a copy of the Proof of Service must be attached to each copy of the document you serve on the parties.

**Filling out the Proof of Service form:**

- (1) The case name in Superior Court or Court of Appeal.
- (2) The Superior Court case number or the Court of Appeal case number.
- (3) Check whether service is by mail or in person.
- (4) Do nothing here, just read to make sure you are over 18 years of age and not a party to the action.
- (5) The home or business address of the person serving the documents.
- (6) Insert the name of the document being served.
- (7) Fill out if the service is by mail. (If not by mail then fill out number (8) below.)
  - a. Check if serving by mail. If service is in person go to number (8).
    - (1)(a) Check if deposited in U.S. mail in sealed envelope with proper prepaid postage. OR
    - (1)(b) Check if placed in location following normal business practices with which you are familiar. On the same day it was deposited in U.S. mail in a sealed envelope with proper prepaid postage.
    - (2)(a) State the full names of all the parties or their attorneys to whom documents are mailed.

(2)(b) State the full address of all the parties or their attorneys to whom the documents were mailed.

(2)(c) Insert date of mailing.

(2)(d) Insert city and state where envelope was mailed.

(8) Fill out if the service is in person. (If not in person then fill out number (7) above.)

b. If service is personal, check here.

(1) Name of the person you gave the documents to.

(2) Address where the person was served.

(3) Date the documents were delivered.

(4) Time the documents were delivered.

(9) Today's date.

(10) Print or type the name of the person actually serving the documents.

(11) The signature of the person who actually served the documents that the foregoing is true and correct.

**An original Proof of Service must be attached to every original document filed with the court. A copy of the Proof of Service must be attached to every document served on all counsel and self-represented parties.**

CASE NAME: (1)	CASE NUMBER: (2)
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NOTICE: A copy of this document must be mailed or personally delivered to the other party or parties to this appeal. YOU MAY NOT PERFORM THE MAILING OR DELIVERY YOURSELF. You must have a person who is at least 18 years old complete the information below and mail (by first-class mail, postage prepaid) or personally deliver the front and back of this document. When the form and back of this document have been completed and a copy mailed or personally delivered, the original may then be filed with the court.

# PROOF OF SERVICE

(3) ☐ Mail ☐ Personal Service

(4) 1. At the time of service I was at least 18 years of age and not a party to this legal action.

(5) 2. My residence or business address is (specify):

3. I mailed or personally delivered a copy of the (6) as follows (complete either a or b):

(7) a. ☐ Mail. I am a resident of or employed in the county where the mailing occurred.

(1) I enclosed a copy in an envelope and

(a) ☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

(b) ☐ placed the envelope for collection and mailing on the date and at the place shown in items below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

(2) The envelope was addressed and mailed as follows:

(a) Name of person served:

(b) Address on envelope:

(c) Date of mailing:

(d) Place of mailing (city and state):

(8) b. ☐ Personal delivery. I personally delivered a copy as follows:

(1) Name of person served:

(2) Address where delivered:

(3) Date delivered:

(4) Time delivered:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: (9)

(10)  
(TYPE OR PRINT NAME)



(11)  
(SIGNATURE OF DECLARANT)

PROOF OF SERVICE

Superior Court of San Diego County Rules  
Division V - Family Law  
Rule 5.63

**Rule 5.63 PREPARATION OF ORDERS AND JUDGMENTS**

Unless otherwise ordered by the court, counsel for the moving party shall prepare a formal order or judgment. Orders after hearing shall be prepared on brown paper and judgments shall be on pink paper. The order or judgment shall be prepared within 10 calendar days of the hearing, unless a transcript has been ordered within five calendar days of the hearing and paid for in a timely manner, in which case the order or judgment shall be prepared within seven calendar days of receipt of the transcript. The order or judgment shall be prepared so that at least two lines of text appear on the page upon which the judge's signature is affixed. No text may appear after the judge's signature.

The party preparing the order or judgment shall send it to the opposing side for approval as to form and content unless the court authorizes the preparer to submit it directly to the court. The recipient shall have 10 calendar days from date of mailing to review the order and, either sign it as prepared, or notify the proponent in writing of objections to its content. If the parties cannot agree on the language of the order, then within 45 days of the hearing or trial either party may submit the proposed order and any written objections by the other party to the judicial officer who made the ruling.

If the responding party fails to timely approve or object to the order or judgment the party who prepared the order shall send a second letter stating that he or she will submit the order or judgment as drafted to the court for signature if no written response to the order is received within five calendar days of the date of the letter. If there is no written response to the second letter, the party preparing the order may transmit the proposed order to the court clerk for signature by the judicial officer with a declaration explaining the circumstances and with copies of both communications.

## **APPLICATION FOR WAIVER OF COURT FEES AND COSTS - INSTRUCTIONS**

When you file your notice of appeal, there is a filing fee of \$655.00 which is due at the time of filing. A deposit of \$100.00 needs to be paid to the Superior Court if you want it to prepare a clerk's transcript for you. If you feel you cannot afford these fees, you may fill out an Application for Waiver of Court Fees and Costs. Generally, you would file the application in the Superior Court when you file your notice of appeal. If you did not file the application in Superior Court you may file it in the Court of Appeal.

### **Filling out the Application for Waiver of Court Fees and Costs form:**

- (1) Your name, mailing address, city, state, zip code and telephone number where you can be reached during the day.
- (2) The name of the court in which you are filing the application. Addresses for the downtown, North County and Imperial County Superior Courts and the Court of Appeal are found on page 1-18.
- (3) The plaintiff's name as it appears on your Superior Court caption.
- (4) The defendant's name as it appears on your Superior Court caption.
- (5) The Superior Court number from your Superior Court case. If you happen to have a Court of Appeal number, also put it here.
- (6) If you can't pay any of the court fees or costs, check box "a". If you can pay part of the court fees or costs, check box "b" and then write down what you can pay.
- (7) Your street address, city, state, zip code and telephone number where you can be reached during the day.
- (8) Write your occupation, employer and employer's address. If you do not have a job, write "unemployed". If you have a spouse and your spouse has a job, write your spouse's occupation, employer and employer's address. If your spouse does not have a job, write "unemployed".
- (9) If you are receiving financial assistance check box 4, then check the box or boxes next to the type of assistance you are receiving.
- (10) If you checked box 4 you have to fill out one of three boxes. Check only one box. If you check box "a" you must write your Medi-Cal number. If you check box "b" you must write your Social Security number and your birth date. If you check box "c" you need to attach verification documents which are listed on the Information Sheet on Waiver of Court Fees and Costs. After you have checked one of these boxes, you are done. Go to the bottom of the form and date and sign it, you do not need to fill out anything else.

(11) Check this box if your gross monthly income is less than the amount shown on the Information Sheet on Waiver of Court Fees and Costs. If you check this box, fill out page 1-17 and date and sign the bottom of page 1-16.

(12) Check this box if your income is not enough to pay for the common necessities of life for yourself and your family and still pay court fees and costs. If you check this box, you have to complete the entire back side of the form, then date and sign the bottom.

(13) Current date.

(14) Type or print your name.

(15) Your signature.

**INFORMATION SHEET ON WAIVER  
OF COURT FEES AND COSTS  
(California Rules of Court, rule 985)**

If you have been sued or if you wish to sue someone, and if you cannot afford to pay court fees and costs, you may not have to pay them if:

1. You are receiving **financial assistance** under one or more of the following programs:

- SSI and SSP (Supplemental Security Income and State Supplemental Payments Programs)
- CalWORKs (California Work Opportunity and Responsibility to Kids Act, implementing TANF, Temporary Assistance for Needy Families, formerly AFDC, Aid to Families with Dependent Children Program)
- The Food Stamp Program
- County Relief, General Relief (G.R.), or General Assistance (G.A.)

If you are claiming eligibility for a waiver of court fees and costs because you receive financial assistance under one or more of these programs, and you did not provide your Medi-Cal number or your social security number and birthdate, you must produce documentation confirming benefits from a public assistance agency or one of the following documents, unless you are a defendant in an unlawful detainer action:

PROGRAM	VERIFICATION
SSI/SSP	Medi-Cal Card or Notice of Planned Action or SSI Computer-Generated Printout or Bank Statement Showing SSI Deposit or "Passport to Services"
CalWORKs/TANF (formerly known as AFDC)	Medi-Cal Card or Notice of Action or Income and Eligibility Verification Form or Monthly Reporting Form or Electronic Benefit Transfer Card or "Passport to Services"
Food Stamp Program	Notice of Action or Food Stamp ID Card or "Passport to Services"
General Relief/General Assistance	Notice of Action or Copy of Check Stub or County Voucher

— OR —

2. Your total gross monthly household income is equal to or less than the following amounts:

NUMBER IN FAMILY	FAMILY INCOME
1	\$ 935.42
2	1,262.50
3	1,589.58
4	1,916.67
5	2,243.75

NUMBER IN FAMILY	FAMILY INCOME
6	\$ 2,570.83
7	2,897.92
8	3,225.00
Each additional	327.08

— OR —

3. Your income is not enough to pay for the common **necessaries** of life for yourself and the people you support and also pay court fees and costs.

*To apply, fill out the Application for Waiver of Court Fees and Costs (Form 982(a)(17)) available from the clerk's office. If you claim no income, you may be required to file a declaration under penalty of perjury. Prison and jail inmates may be required to pay up to the full amount of the filing fee.*

If you have any questions and cannot afford an attorney, you may wish to consult the legal aid office, legal services office, or lawyer referral service in your county (listed in the Yellow Pages under "Attorneys").

If you are asking for review of the decision of an administrative body under Code of Civil Procedure section 1094.5 (administrative mandate), you may ask for a transcript of the administrative proceedings at the expense of the administrative body.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):  (1)   TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____ <hr/> NAME OF COURT: (2) STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: <hr/> PLAINTIFF/PETITIONER: (3) DEFENDANT/RESPONDENT: (4)	FOR COURT USE ONLY           <hr/> CASE NUMBER: (5)
<b>APPLICATION FOR WAIVER OF COURT FEES AND COSTS</b>	

I request a court order so that I do not have to pay court fees and costs.

- (6) 1. a. ☐ I am not able to pay any of the court fees and costs.  
 b. ☐ I am able to pay **only** the following court fees and costs (specify):
- (7) 2. My current street or mailing address is (if applicable, include city or town, apartment no., if any, and zip code):
- (8) 3. a. My occupation, employer, and employer's address are (specify):  
 b. My spouse's occupation, employer, and employer's address are (specify):
- (9) 4. ☐ I am receiving financial assistance under one or more of the following programs:  
 a. ☐ SSI and SSP: Supplemental Security Income and State Supplemental Payments Programs  
 b. ☐ CalWORKs: California Work Opportunity and Responsibility to Kids Act, implementing TANF, Temporary Assistance for Needy Families (formerly AFDC)  
 c. ☐ Food Stamps: The Food Stamp Program  
 d. ☐ County Relief, General Relief (G.R.), or General Assistance (G.A.)
- (10) 5. If you checked box 4, you must check and complete one of the three boxes below, unless you are a defendant in an unlawful detainer action. Do not check more than one box.  
 a. ☐ (Optional) My Medi-Cal number is (specify):  
 b. ☐ (Optional) My social security number is (specify):  
     \_\_\_\_ - \_\_\_\_ - \_\_\_\_\_ and my date of birth is (specify):  
     [Federal law does not require that you give your social security number. However, if you don't give your social security number, you must check box c and attach documents to verify the benefits checked in Item 4.]  
 c. ☐ I am attaching documents to verify receipt of the benefits checked in Item 4, if requested by the court.  
     [See Form 982(a)(17)(A) Information Sheet on Waiver of Court Fees and Costs, available from the clerk's office, for a list of acceptable documents.]
- [If you checked box 4 above, skip items 6 and 7, and sign at the bottom of this side.]
- (11) 6. ☐ My total gross monthly household income is less than the amount shown on the Information Sheet on Waiver of Court Fees and Costs available from the clerk's office.  
 [If you checked box 6 above, skip item 7, complete items 8, 9a, 9d, 9f, and 9g on the back of this form, and sign at the bottom of this side.]
- (12) 7. ☐ My income is not enough to pay for the common necessities of life for me and the people in my family whom I support and also pay court fees and costs. [If you check this box, you must complete the back of this form.]

**WARNING: You must immediately tell the court if you become able to pay court fees or costs during this action. You may be ordered to appear in court and answer questions about your ability to pay court fees or costs.**

I declare under penalty of perjury under the laws of the State of California that the information on both sides of this form and all attachments are true and correct.

(13) Date: \_\_\_\_\_ (14) \_\_\_\_\_ (15)

(TYPE OR PRINT NAME)                      (Financial Information on reverse)                      (SIGNATURE)



PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
--	--------------

### FINANCIAL INFORMATION

8. ☐ My pay changes considerably from month to month. *[If you check this box, each of the amounts reported in item 9 should be your average for the past 12 months.]*

9. **MY MONTHLY INCOME**

a. My gross monthly pay is: ..... \$ \_\_\_\_\_

b. My payroll deductions are (specify purpose and amount):

(1) _____	\$ _____
(2) _____	\$ _____
(3) _____	\$ _____
(4) _____	\$ _____

My TOTAL payroll deduction amount is: \$ \_\_\_\_\_

c. My monthly take-home pay is (a, minus b.): ..... \$ \_\_\_\_\_

d. Other money I get each month is (specify source and amount; include spousal support, child support, parental support, support from outside the home, scholarships, retirement or pensions, social security, disability, unemployment, military basic allowance for quarters (BAQ), veterans payments, dividends, interest or royalty, trust income, annuities, net business income, net rental income, reimbursement of job-related expenses, and net gambling or lottery winnings):

(1) _____	\$ _____
(2) _____	\$ _____
(3) _____	\$ _____
(4) _____	\$ _____

The TOTAL amount of other money is: \$ \_\_\_\_\_  
*(If more space is needed, attach page labeled Attachment 9d.)*

e. **MY TOTAL MONTHLY INCOME IS**  
(c, plus d.): ..... \$ \_\_\_\_\_

f. Number of persons living in my home: \_\_\_\_\_  
Below list all the persons living in your home, including your spouse, who depend in whole or in part on you for support, or on whom you depend in whole or in part for support:

Name	Age	Relationship	Gross Monthly Income
(1) _____	_____	_____	\$ _____
(2) _____	_____	_____	\$ _____
(3) _____	_____	_____	\$ _____
(4) _____	_____	_____	\$ _____
(5) _____	_____	_____	\$ _____

The TOTAL amount of other money is: \$ \_\_\_\_\_  
*(If more space is needed, attach page labeled Attachment 9f.)*

g. **MY TOTAL GROSS MONTHLY HOUSEHOLD INCOME IS**  
(a, plus d, plus f.): ..... \$ \_\_\_\_\_

10. I own or have an interest in the following property:

a. Cash ..... \$ \_\_\_\_\_

b. Checking, savings, and credit union accounts (list banks):

(1) _____	\$ _____
(2) _____	\$ _____
(3) _____	\$ _____
(4) _____	\$ _____

10. c. Cars, other vehicles, and boats (list make, year, fair market value (FMV), and loan balance of each):

Property	FMV	Loan Balance
(1) _____	\$ _____	\$ _____
(2) _____	\$ _____	\$ _____
(3) _____	\$ _____	\$ _____

d. Real estate (list address, estimated fair market value (FMV), and loan balance of each property):

Property	FMV	Loan Balance
(1) _____	\$ _____	\$ _____
(2) _____	\$ _____	\$ _____
(3) _____	\$ _____	\$ _____

e. Other personal property — jewelry, furniture, furs, stocks, bonds, etc. (list separately):  
\$ \_\_\_\_\_

11. My monthly expenses not already listed in item 9b above are the following:

a. Rent or house payment & maintenance ..... \$ \_\_\_\_\_

b. Food and household supplies ..... \$ \_\_\_\_\_

c. Utilities and telephone ..... \$ \_\_\_\_\_

d. Clothing ..... \$ \_\_\_\_\_

e. Laundry and cleaning ..... \$ \_\_\_\_\_

f. Medical and dental payments ..... \$ \_\_\_\_\_

g. Insurance (life, health, accident, etc.) ..... \$ \_\_\_\_\_

h. School, child care ..... \$ \_\_\_\_\_

i. Child, spousal support (prior marriage) ..... \$ \_\_\_\_\_

j. Transportation and auto expenses (insurance, gas, repair) ..... \$ \_\_\_\_\_

k. Installment payments (specify purpose and amount):

(1) _____	\$ _____
(2) _____	\$ _____
(3) _____	\$ _____

The TOTAL amount of monthly installment payments is: ..... \$ \_\_\_\_\_

l. Amounts deducted due to wage assignments and earnings withholding orders: ..... \$ \_\_\_\_\_

m. Other expenses (specify):

(1) _____	\$ _____
(2) _____	\$ _____
(3) _____	\$ _____
(4) _____	\$ _____
(5) _____	\$ _____

The TOTAL amount of other monthly expenses is: ..... \$ \_\_\_\_\_

n. **MY TOTAL MONTHLY EXPENSES ARE**  
(add a. through m.): ..... \$ \_\_\_\_\_

12. Other facts that support this application are (describe unusual medical needs, expenses for recent family emergencies, or other unusual circumstances or expenses to help the court understand your budget; if more space is needed, attach page labeled Attachment 12):

**WARNING:** You must immediately tell the court if you become able to pay court fees or costs during this action. You may be ordered to appear in court and answer questions about your ability to pay court fees or costs.

9823(17) (Rev. January 1, 2005)

**APPLICATION FOR WAIVER OF COURT FEES AND COSTS**  
(In Forms Pauperis)

Page two

## **ORDER ON APPLICATION FOR WAIVER OF COURT FEES AND COSTS - INSTRUCTIONS**

This form is the order from the court either granting or denying your request to waive fees. The court fills out most of this form. The only part you will fill out are the nine items listed below. **[Note: The Court of Appeal can only waive the Court of Appeal filing fee of \$655.00.]**

### **Filling out the Order on Application for Waiver of Court Fees and Costs form:**

- (1) Your name, street address, city, state, zip code and telephone number where you can be reached during the day.
- (2) Name of court where you are applying for waiver.
- (3) The plaintiff's name as it appears on your Superior Court caption.
- (4) The defendant's name as it appears on your Superior Court caption.
- (5) The Superior Court number from your Superior Court case. If you happen to have a Court of Appeal number, also put it here.
- (6) Date Application for Waiver of Court Fees and Costs was filed with the court.
- (7) Check this box and indicate whether a previous order regarding a fee waiver was issued. If yes, indicate the date it was sent.
- (8) Name of person applying for waiver.
- (9) Check box 3. If you are asking that the reporter's transcript fees be waived, check box (9) "Other" and write in "Reporter's transcript fees". [Please note: Number (7) "Reporter's Fees (valid for 60 days)" covers only that portion of the fees for taking the notes in the courtroom. This will not get you a waiver of the reporter's transcript fees.]

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): (1)		FOR COURT USE ONLY
TELEPHONE NO.:	FAX NO.:	
E-MAIL ADDRESS (Optional):		
ATTORNEY FOR (Name):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		CASE NUMBER: (5)
STREET ADDRESS: (2)		
MAILING ADDRESS:		
CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF/ PETITIONER: (3)		
DEFENDANT/ RESPONDENT: (4)		

- ORDER ON APPLICATION FOR WAIVER OF COURT FEES AND COSTS** (5)
- (6) 1. The application was filed on (date): (7) ☐ A previous order was issued on (date):
- (8) 2. The application was filed by (name):
- (9) 3. ☐ IT IS ORDERED that the application is **granted** ☐ in whole ☐ in part (complete item 4 below).
- a. ☐ **No payments.** Payment of all the fees and costs listed in California Rules of Court, rule 985(i), **is waived.**
- b. ☐ **The applicant shall pay** all the fees and costs listed in California Rules of Court, rule 985(i), EXCEPT the following:
- |   |  |
|---|--|
| (1) <input type="checkbox"/> Filing papers.                     | (6) <input type="checkbox"/> Sheriff and marshal fees.                       |
| (2) <input type="checkbox"/> Certification and copying.         | (7) <input type="checkbox"/> Reporter's fees* (valid for 60 days).           |
| (3) <input type="checkbox"/> Issuing process and certification. | (8) <input type="checkbox"/> Telephone appearance (Gov. Code, § 68070.1(c)). |
| (4) <input type="checkbox"/> Transmittal of papers.             | (9) <input type="checkbox"/> Other (specify code section):                   |
| (5) <input type="checkbox"/> Court-appointed interpreter.       |  |
- \* Reporter's fees are per diem pursuant to Code Civ. Proc., §§ 269, 274c, and Gov. Code, §§ 69947, 69948, and 72195.
- c. **Method of payment.** The applicant shall pay all the fees and costs when charged, EXCEPT as follows:
- (1) ☐ Pay (specify): \_\_\_\_\_ percent. (2) ☐ Pay: \$ \_\_\_\_\_ per month or more until the balance is paid.
- d. The clerk of the court, county financial officer, or appropriate county officer is authorized to require the applicant to appear before and be examined by the court no sooner than four months from the date of this order, and not more than once in any four-month period. ☐ The applicant is ordered to appear in this court as follows for review of his or her financial status:
- |       |       |        |       |       |
|-------|-------|--------|-------|-------|
| Date: | Time: | Dept.: | Div.: | Room: |
|-------|-------|--------|-------|-------|
- e. ☐ The clerk is directed to mail a copy of this order only to the applicant's attorney or to the applicant if not represented.
- f. **All unpaid fees and costs shall be deemed to be taxable costs if the applicant is entitled to costs and shall be a lien on any judgment recovered by the applicant and shall be paid directly to the clerk by the judgment debtor upon such recovery.**
4. ☐ IT IS ORDERED that the application is **denied** ☐ in whole ☐ in part for the following reasons (see Cal. Rules of Court, rule 985 j):
- a. ☐ Monthly household income exceeds guidelines (Gov. Code, § 68511.3(a)(6)(B); form 982(a)(17)(A)).
- b. ☐ Other (Complete line 4b on page 2).
- c. The applicant shall pay any fees and costs due in this action within 10 days from the date of service of this order or any paper filed by the applicant with the clerk will be of no effect.
- d. The clerk is directed to mail a copy of this order to all parties who have appeared in this action.
5. ☐ IT IS ORDERED that a **hearing** be held.
- a. The substantial evidentiary conflict to be resolved by the hearing is (specify):
- b. The applicant should appear in this court at the following hearing to help resolve the conflict:
- |       |       |        |       |       |
|-------|-------|--------|-------|-------|
| Date: | Time: | Dept.: | Div.: | Room: |
|-------|-------|--------|-------|-------|
- c. The address of the court is (specify):
- ☐ Same as above
- d. The clerk is directed to mail a copy of this order only to the applicant's attorney or to the applicant if not represented.

**NOTICE:** If item 3d or item 5b is filled in and the applicant does not attend the hearing, the court may revoke or change the order or deny the application without considering information the applicant wants the court to consider.

**WARNING:** The applicant must immediately tell the court if he or she becomes able to pay court fees or costs during this action. The applicant may be ordered to appear in court and answer questions about his or her ability to pay fees or costs.

Date:

☐ \_\_\_\_\_, JUDICIAL OFFICER ☐ Clerk, by \_\_\_\_\_, Deputy

Form Adopted for Mandatory Use  
Judicial Council of California  
982(a)(18) (Rev. January 1, 2002)

**ORDER ON APPLICATION FOR WAIVER OF  
COURT FEES AND COSTS (In Forma Pauperis)**

(Check only "GRANT" in full a noncollaboratory fee waiver: see Cal. Rules of Court, rule 985(i)) Page 1 of 2

Government Code, § 68511.3;  
Cal. Rules of Court, rule 982

PLAINTIFF/PETITIONER (Name):	CASE NUMBER:
DEFENDANT/RESPONDENT (Name):	

☐ Application is denied in whole or in part (specify reasons):

#### CLERK'S CERTIFICATE OF MAILING

I certify that I am not a party to this cause and that a true copy of the foregoing was mailed first class, postage prepaid, in a sealed envelope addressed as shown below, and that the mailing of the foregoing and execution of this certificate occurred at \_\_\_\_\_, California, on (date): \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy

\_\_\_\_\_

\_\_\_\_\_



#### CLERK'S CERTIFICATE

I certify that the foregoing is a true and correct copy of the original on file in my office.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

## **COURTS & PUBLIC LAW LIBRARIES**

### **COURTS**

#### **Superior Courts of San Diego and Imperial Counties**

For filing all notices of appeal and requests for preparing the record accompanied by proofs of service use the San Diego County Superior Court except for cases in North County using the Vista Courthouse and cases arising out of Imperial County. The clerk of the Superior Court is located at:

Clerk, Appeals Section  
San Diego County Superior Court  
Central Division, P.O. Box 120128  
220 West Broadway, Room 3005  
San Diego, CA 92112-0128

The address for the North County Division is:

Clerk, Appeals Section  
San Diego County Superior Court  
North County Division  
325 South Melrose Drive, Suite 1000  
Vista, CA 92081-6643

The address for the Imperial County Superior Court is:

Imperial County Courthouse  
Appellate Division  
939 West Main Street  
El Centro, CA 92243-2861

Telephone at Central is (619) 531-3144; in North County it is (760) 806-6170; in Imperial County it is (760) 482-4225.

#### **California Court of Appeal**

For filing motions and briefs in the Court of Appeal, the address is:

Clerk, Court of Appeal  
Fourth District, Division One  
750 "B" Street, Suite 300  
San Diego, CA 92101

Main telephone is (619) 645-2760.

## **California Supreme Court**

For filing copies of briefs and petitions for review in the California Supreme Court the address is:

California Supreme Court  
Second Floor  
300 South Spring Street  
Los Angeles, CA 90013  
(213) 830-7570

OR

California Supreme Court  
350 McAllister Street  
San Francisco, CA 94102  
(415) 865-7000

## **PUBLIC LAW LIBRARIES**

The San Diego County Public Law Library has the following locations.

1105 Front Street  
San Diego, CA 92101  
619-531-3900

Hours: Mon. 8AM-9PM  
Tues-Thurs. 8AM-6PM  
Fri. 8 AM-5PM  
Sat. 10 AM - 5 PM  
Sun. Closed

250 E. Main Street  
El Cajon, CA 92020  
(619) 441-4451

Hours: Mon.-Fri. 8 AM-5PM  
Sat.-Sun. Closed

500 Third Avenue  
Chula Vista, CA 91910  
(619) 691-4929

Hours: Mon.-Fri. 9AM-4PM  
Sat.-Sun. Closed

325 S. Melrose Drive  
Suite 300  
Vista, CA 92081  
(760) 940-4386

Hours: Mon-Thurs. 8AM-6PM  
Fri. 8 AM-5PM  
Sat.-Sun. Closed

The Imperial County Public Law Library has the following location.

Imperial County Courthouse  
939 West Main Street  
El Centro, CA 92243  
760-482-4374

Hours: Mon.-Fri. 8AM-Noon  
Closed Noon-1PM  
1 PM-5PM  
Sat.-Sun. Closed

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9 Witkin, Cal. Procedure (4th ed. 1996) Appeal